The Solicitors' Journal

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CURRENT TOPICS

Earl Lloyd George of Dwyfor

IT was only in the last week or two of the life of EARL LLOYD GEORGE OF DWYFOR that it became apparent that he was drawing very near to his end. So great a source of energy and perennial enthusiasm could not have suddenly disappeared from the worldly scene, as others do, and it was painful to his friends and admirers to know that for nearly two months before the end he had to struggle against increasing physical weakness. However, he died peacefully in his sleep on 26th March, 1945. So ended the career of one who, commencing as a country solicitor, carved for himself a name that is now counted among the greatest in English history. He was inevitably "a giant among giants," as General SMUTS said, or, as Dr. THOMAS JONES, Deputy Secretary to the War Cabinet in the 1914–1918 war, happily put it, "Lloyd George has joined the company of Cromwell and Chatham in the pantheon of the greatest War Ministers." Another, and perhaps even greater aspect of the man, was stressed by LORD CECIL OF CHELWOOD, who wrote: "He was devoted to the interests of those who suffered from poverty, or misfortune, ordinarily called the underdogs." That, indeed, was the keynote to his career. He provided a rare example of that happy combination, a great War Minister and a great Peace Minister. It is with pride that solicitors can reflect that such men may rise from their ranks.

Solicitors and Historical Records

SOME of the valuable work that has been done by solicitors in salving historical records for future use received favourable comment in an article in the *Luton News* of 22nd February, 1945. In the last eight years, the article states, there has been a falling off in the contribution of documents to the Bedfordshire County Records Office, except for deposits by solicitors in Leighton Buzzard (Messrs. Walton & Ray; Messrs. Thornley & Boutwood), and Ampthill (Messrs. Webber and Williams), and except for small groups of single documents handed over from other counties or by the British Records Association. The writer answers the question as to what kind of records are required by dividing them into four groups: (1) the records of a county family of old standing—deeds, court rolls, account books, correspondence, papers relating to the office of justice of the peace, sheriff, member of parliament; (2) almost as good are those which accumulate in the offices of an old-established firm of solicitors; these may include papers relating to enclosures, turnpikes, elections, early railways; (3) parish documents—the old papers of overseer, surveyor and constable; (4) the business records of the past. It is pointed out that the County Records Office undertakes the sorting of such collections: those of historical value are kept; a receipt is given; and the family or solicitors (while retaining the legal ownership of their documents) are relieved of the bothersome necessity of storing large numbers of papers whose contents they cannot read and do not know. The work of the County Records Associations in supplementing that of the British Records Association deserves to be better known. Bedfordshire has shown how solicitors can participate in this good cause.

Summary Courts

THE literary ability informing Mr. DE VERE STACKPOOLE'S letter to *The Times* of 24th March on Summary Courts was undeniable. Admiration, however, for the force and style of the delivery of the writer's views might tend to obscure much of the truth of the opposite opinion. In Mr. Stackpoole's experience there were few uncorrected mistakes in summary justice, because "there is always the clerk of the court to look after the law, the chairman of the bench to look after the more woolly headed of his flock, the chairman of quarter sessions to look after the chairman of the bench, the High Court judges to look after both; and the Press and the public to look after the lot." The assumptions in this clever statement are almost too many to need controverting. In order that the statement must be true, all clerks must be learned in the law, all chairmen must be devoid of "woolliness," all defendants and litigants must have pecuniary means of appealing, and every injustice and error must be brought to the attention of the Press and the public. "I have always found human beings make the best magistrates," continued Mr. Stackpoole, "and to take the warm human bowels out of the thing and substitute an electric driven stipendiary would in my humble opinion, be a mistake." Presumably Mr. Stackpoole wished by the use of the phrase "electric driven" to convey the impresssion that he does not consider persons learned in law to be quite human. Anyone who talks to advocates in the police courts and to the persons whom they represent will soon discover that the general view is that there is more warm-heartedness, sympathy and understanding to be found in the ranks of stipendiary magistrates than ever could be found in the lay bench.

Treatment of Criminals

FEW people are better qualified than LORD TEMPLEWOOD, not only by virtue of having held the office of Home Secretary with distinction in the past, but also because of his broad human sympathies, to indicate the outlines of future progress in criminal treatment. In his address on 21st March, at the annual meeting of the Discharged Prisoners' Aid Society, Lord Templewood said that many of the problems that are now forcing themselves on the public attention, the problem, for instance, of remand homes, and the problem of deserted

and neglected children, would have been much less serious had we been able to set up the machinery contemplated in the Criminal Justice Bill of 1938. The society provided one of the answers to those who said that the more Draconian the treatment of prisoners, the fewer criminals there would be. Simultaneously with a greater humanisation of penal treatment, the number of criminals in British prisons had been sensationally reduced since the beginning of the century. What better evidence could there be than the closing of Dartmoor as a convict prison? Lord Templewood said that a government and a people could be judged by its treatment of prisoners. That was one of the reasons why he had formed such a bad opinion of the totalitarian régime in Spain. Spanish penal treatment outraged in almost every direction the sound principles of respect for human personality, of publicity as a check upon scandals, and of common-sense humanity as the most effective means of diminishing crime. He insisted that a government's treatment of delinquency and crime was an acid test of its civilisation and that our own penal system urgently needed to be reformed in accordance with modern experience and standards.

Judicial Ignorance

THE Common Serjeant's confession that he had never seen a ration book has attracted more public attention than it deserves. Most lawyers who have had the pleasure of appearing before that learned judge will very readily endorse Mr. DEREK CURTIS-BENNETT'S statement in a letter on the subject to the *Daily Telegraph* of 21st March that the observation in court was not made for the benefit of a public discussion, nor was it an assumption of judicial ignorance, but he was "plainly trying to find out about something he did not happen to know which had no doubt become relevant to the case before him, as would be his duty to do." With his experience of Old Bailey trials, the Common Serjeant obviously knows the place of the ration books in our system of emergency law, and his statement must be taken as circumscribed by its express limits. Furthermore, persons with the slightest acquaintance with the learned judge will freely recognise that to use the words "pose" or "inanity" in connection with any of his utterances is to use words which describe the exact opposite of his character, and bespeaks recklessness and ignorance on the part of those who use them. It is difficult to understand why judicial ignorance excites popular risibility. Perhaps it is the contrast with the reputation for immense learning which judges almost invariably enjoy. As every student of the law of evidence knows, it is a judge's duty to be ignorant of everything except those things of which he must take "judicial notice." Not all judicial ignorance is of the type of that of GRANTHAM, J., who once asked if Sir SEYMOUR HICKS was the man who advertised that he produced some article or other. Counsel rather impertinently replied that there were some people who thought it fashionable to affect ignorance. "I am not fashionable and I do not affect ignorance," replied GRANTHAM, J.

Limitation of Actions

THE Limitation (Enemies and War Prisoners) Bill now before Parliament proposes the suspension of periods of limitation in relation to "enemies" as defined by the Bill and persons "detained in enemy territory." The Council of The Law Society, according to the March issue of the *Law Society's Gazette*, considers that the Bill is not nearly wide enough to cover all the cases which should be met now by legislation. In presenting their view to the Government the Council referred, *inter alia*, to the position of British subjects resident in neutral countries, such as Switzerland, with which communication has been difficult, and members of the Forces serving in remote places. Furthermore, the Council stated, cases where by statute a limitation is deemed to be incorporated in, and to become a term of a contract are not all covered by the Bill, e.g., art. III, r. 6 of the Schedule to the Carriage of Goods by Sea Act, 1924. It is pointed out that although the Limitation Bill is retrospective to 3rd September, 1939, it may not give relief in this connection where proceedings have not been brought owing to the detention or enemy status of a necessary party. In spite of the Council's representations, no alteration has been made in the scope of the Bill, and the Council understands that no further legislation on this subject will be introduced. The Council therefore recommends solicitors to consider all cases in their offices where the question of taking proceedings has been left aside owing to war circumstances, and to make sure that proceedings are issued before the limitation period expires; and if necessary, to apply to renew process so issued, within twelve months after its issue. Solicitors are urged not to allow themselves to become liable for actions for negligence through failing to take proceedings within the statutory period. Grave doubts were also expressed by the Council to the Government as to the difficulties in determining when a person acquired enemy status and when he lost it. They state that in some small measure these difficulties may be met by the publication by the Board of Trade from time to time of tables giving the dates when various territories were declared to be and ceased to be enemy territories, but their publication will not help in deciding questions of fact which will arise as to the movements of individual parties to actions, such as prisoners of war released by the Soviet Armies in Poland or the American forces in the Pacific.

Recent Decisions

In a case in the Court of Appeal (LORD GODDARD and MACKINNON and DU PARCQ, L.JJ.), on 12th March (*The Times*, 13th March), it was held that litigation between husband and wife under s. 17 of the Married Women's Property Act, 1882, as to the ownership of property, can continue notwithstanding a decree absolute of divorce which has ended the marriage after the issue of the summons under s. 17 and before it has been determined.

In *Attorney-General (on relation of Royal College of Organists)* v. *Dean and Chapter of Ripon Cathedral*, on 21st March (*The Times*, 22nd March), UTHWATT, J., held that the statutes of Ripon Cathedral requiring the holding of full choral services in the cathedral every Sunday morning were part of the ecclesiastical law of the land, and the power to enforce obedience belonged exclusively to an ecclesiastical court. It was doubtful whether the High Court had any jurisdiction at all, but assuming that it had, it was contrary to the practice of the court to grant a mandatory order for the performance of a continued series of operations, and the court would not do so in the present case.

In an appeal in the House of Lords (LORD RUSSELL OF KILLOWEN, LORD MACMILLAN, LORD PORTER and LORD SIMONDS) on 22nd March (*The Times*, 23rd March) the House upheld the Crown's contention that in apportioning income among members of a company, for the purpose of s. 21 of the Finance Act, 1922, as amended by the Finance Act, 1927 (dealing with the imposition of sur-tax on the income of certain companies which fail to pay reasonable dividends), the Commissioners must consider all the different interests of the members, including voting power and all shares or interests in the capital or profits or income of the company as a going concern or in winding-up, for the purpose of ascertaining who in fact were beneficially interested in the income in question and in what proportions, and no notional declaration of dividend was envisaged by the section. There was no justification for restricting the interests which the Commissioners might take into account to rights in declared dividends. The Commissioners might well ask themselves: (1) on whom did it depend whether or not the income should be withheld from distribution, and (2) for whose benefit was the distribution withheld or (in other words) who would avoid payment of sur-tax by the withholding? If the same individuals figured in each answer, those were obviously the persons who, according to their interests in the company, owned the real and paramount beneficial interest in the fund in question.

A CONVEYANCER'S DIARY

THE STATUTORY TRUSTS—I

LAST summer I wrote a number of articles here on the provisions under which the legal estate in land held by co-owners becomes vested in one or more persons on the statutory trusts. By way of sequel, I now propose to examine the effects of those trusts.

The "statutory trusts" for the present purpose are those defined by s. 35 of the Law of Property Act, and by the virtually identical s. 36 (6) of the Settled Land Act; they must, of course, be distinguished from the "statutory trusts" of s. 47 of the Administration of Estates Act, which apply in certain cases of intestacy. The following is the full text of L.P.A., s. 35, as it now stands, after the amendments made, retroactive to 1st January, 1926, by the Law of Property (Amendment) Act, 1926, and the Law of Property (Entailed Interests) Act, 1932: "For the purposes of this Act land held upon the 'statutory trusts' shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of the persons (including an incumbrancer of a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land, and the right of a person who, if the land had not been made subject to a trust for sale by virtue of this Act, would have been entitled to an entailed interest in an undivided share in the land, shall be deemed to be a right in a corresponding entailed interest in the net proceeds of sale attributable to that share.

Where—

(*a*) an undivided share was subject to a settlement, and

(*b*) the settlement remains subsisting in respect of other property, and

(*c*) the trustees thereof are not the same persons as the trustees for sale,

then the statutory trusts include a trust for the trustees for sale to pay the proper proportion of the net proceeds of sale or other capital money attributable to the share to the trustees of the settlement to be held by them as capital money arising under the Settled Land Act, 1925."

Very much the most important part of the section is the first two-thirds of the first paragraph, of which the section originally consisted. The rest was added later to meet particular points of difficulty which arose.

The first trust is a trust for sale. This trust for sale is exactly like any other trust for sale, save for the extra effect of its being imposed by statute. It has all the ordinary qualities of a trust for sale and is not merely a piece of conveyancing mechanism. I fancy that this fundamental point was not fully appreciated in the early days, and the first case which really brought it home was *Re Price* [1928] Ch. 579, where Clauson, J., held that the statutory trust for sale worked an equitable conversion of the land into personalty, as does an ordinary trust for sale, and that the interest in personalty which corresponded to an estate tail in an undivided share of realty was an absolute interest, entailed interests in personalty having been unknown to the law till 1926, and being now only capable of creation by strict words of limitation (see L.P.A., s.130), which words were, of course, not present in s. 35. One consequence of *Re Price* was the insertion in s. 35 of the words preserving entailed interests with which the first paragraph now concludes: the other was that it was generally recognised that the interests of persons entitled to beneficial interests in land held on the statutory trusts are always interests in personalty.

This fact was further brought out by *Re Kempthorne* [1930] 1 Ch. 268, where Maugham, J., and the Court of Appeal held that interests of a tenant in common, which had been interests in land at the date of the will and till the beginning of 1926, passed under the testator's residuary bequest and not his residuary devise. An even more remarkable decision was that of Farwell, J., in *Re Newman* [1930] 2 Ch. 409, where it was held that a specific devise, in a will made in 1922, of "all my moiety or equal half-part or share and all other my share in" Blackacre failed altogether on the testator's death after 1925 because before the testator's death Blackacre had become subject to the statutory trusts, so that he no longer had an interest in Blackacre, but only in proceeds of sale. The specific devise was therefore held to be adeemed. In *Re Wheeler* and *Re Mellish* [1929] 2 K.B. 81, 82, different results had been reached, and in *Re Warren* [1932] 1 Ch. 42, Maugham, J., found reasons sufficient to justify him in holding, on the particular circumstances of the case, that a similar devise was not adeemed. But there is no doubt that the beneficial interests "behind" a statutory trust for sale are interests in personalty, just like any other beneficial interests in proceeds of sale of land held on trust for sale; and this is so for all purposes.

The second major point is that the statutory trusts override the existing trusts of the land. Thus *Bernhardt* v. *Galsworthy* [1929] 1 Ch. 549 was an action for execution of a trust, started in 1869, in which a receiver was collecting the rents and profits of certain land and was distributing them among thirty-six people. The legal estate had long been vested in the Public Trustee, but at the beginning of 1926 he "became invested with the statutory trusts for sale." Eve, J., held that the statutory trusts had "superseded" the trusts for whose execution the decree had been made, and that the Public Trustee could therefore exercise his power as statutory trustee without any application in the action. The statutory trusts are new trusts; their imposition does not merely mean that a trust for sale is written into the existing trusts. It follows (and this point is frequently overlooked in practice to the general inconvenience) that an appointment of new trustees of the instrument under which the land was held before the imposition of the statutory trusts does not make the appointees trustees of the statutory trust. Likewise, if A was empowered by the instrument creating the old trust to appoint new trustees of that trust, he will not have a consequential power to appoint new statutory trustees. In fact, no one but the court or the statutory trustees themselves can ever appoint new statutory trustees. The provision under which other appointors can appoint is Trustee Act, s. 36 (1) (*a*), which confers the power to appoint on "the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust." The statutory trusts are created either by the Law of Property Act or the Settled Land Act, neither of which makes any such nomination.

The third large point is that the statutory trusts, though overriding all other trusts imposed on the subject-matter which they cover, are not overriding trusts in the sense that the trustees can overreach equitable interests prior to their estate. That can only be done in the abnormal case of a special trust under L.P.A., s. 2 (2), or S.L.A., s. 21. Indeed, the statutory trusts do not invariably have a very high priority; for instance, where two beneficial tenants in common become statutory trustees by virtue of L.P.A., Sched. I, Pt. IV, para. 1 (2), they take subject even to equitable incumbrances affecting the entirety.

Next week I shall discuss the effect of the imposition of the statutory trusts upon certain specific incidents of the land.

When the Law Sittings ended last Wednesday the Divorce Division had tried about 2,110 cases during the term. At the beginning of the term on 11th January there were 2,992 suits for trial, the majority being undefended. Since then some hundreds of cases in which service men and women were concerned have been added to the list and given priority for hearing on urgent grounds. Over a thousand divorce petitions will be carried over to next term.

LANDLORD AND TENANT NOTEBOOK

INTERPRETATION OF THE SMALL TENEMENTS RECOVERY ACT, 1838

THOUGH £20 will not go as far now as it would in 1838, or even 1938, there are still a large number of properties let on terms which bring them within the provisions of the Small Tenements Recovery Act, 1838, with its limit of £20 annual rent. The procedure may, when applied by other statutes to particular classes of lettings and for specified purposes, be invoked though the rent exceeds that figure, as was decided by *R.* v. *Snell, ex parte St. Marylebone Borough Council* (1942), 86 SOL. J. 161 (discussed *ib.*, 159). But, apart from such applications, there are surprisingly many cottages, controlled, tied and otherwise, which are held by tenants " at will or for any term not exceeding seven years, either without being liable to the payment of any rent or at a rent not exceeding the rate of twenty pounds a year," to quote from s. 1 of the statute.

The decision just mentioned did not turn on the interpretation of the Small Tenements Recovery Act, 1938, but upon that of the Housing Act, 1936. But since then we have had *R.* v. *Droxford JJ., ex parte Knight* [1943] 1 K.B. 284 (see 87 SOL. J. 44), and *Bailey* v. *Hookway* (1945), 61 T.L.R. 239, which I propose to discuss now. Both showed that the Act contains traps for the unwary landlord.

The relevant facts of the recent case were that a landlord of a " small tenement," the tenancy of which had been duly determined, instructed a firm of solicitors who wrote to the tenant notifying her of their intention to apply for a justices' warrant. The contents of the letter satisfied the numerous requirements of s. 1, which, however, demands that the notice " shall be signed by the landlord or his agent." But the statute concludes with an interpretation clause, s. 7: " In construing this act the word ' premises ' shall be taken to signify lands, houses, or other corporate hereditaments . . . the word ' agent ' shall be taken to signify any person usually employed by the landlord in the letting of the premises or in the collection of the rents thereof, or specially authorised to act in the particular matter by writing under the hand of such landlord."

The modern interpretation clause, we know, uses one of two verbs: " means " or " includes." The issue in *Bailey* v. *Hookway* may be said to have been: which of these did the expression " signify " signify? For the landlord, it was contended that the definition was not exclusive: " agent " would cover regular letting and collecting agents, or those specially authorised in writing for the occasion, but this did not mean that authority could not be established in the ordinary way. This contention (which had been accepted by the magistrates) was rejected by the Divisional Court.

The view of the court was, it appears, that taking the word " signify " by itself there was no ground for giving it the meaning " shall include "; but, besides that—and this is of more general interest—the history and scheme of the Act as a whole militated against such an interpretation. Croom-Johnson, J., pointed out that the statute conferred jurisdiction on justices not in the usual way to determine the rights of the parties, but jurisdiction to make an order giving a specific remedy to the landlord at a saving of costs and expense for both landlord and tenant; the underlying equity was expressed by Humphreys, J.: " If a landlord was minded to take advantage of the exceptional remedy provided by the Act, which is over 100 years old, it is only reasonable to hold that the landlord must bring himself within its terms, archaic though they might be." (Section 1 consists of a sentence of some 537 words, with little punctuation.)

In support of his view, Croom-Johnson, J., referred to *Delany* v. *Fox* (1856), 26 L.J.C.P. 5, an action brought under s. 6 of the Act: this provides that if the landlord's title is good, he is not to be liable for trespass by reason of irregularity or informality in the mode of proceeding for obtaining possession, but the party aggrieved may bring " an action on the case for such irregularity or informality, in which the damage alleged to be sustained thereby shall be specially laid, and may recover full satisfaction for such special damage." The plaintiff relied on two slips: (i) the notice given under s. 1, which has to be in the form (No. 1) given in the schedule, uses the word " owner," as does the form of warrant prescribed; in his case the notice had named without describing the complainant, and the warrant had described him as " your landlord "; (ii) Form 1 notifies the owner's or agent's intention to apply " on next, the day of , at of the clock on the same day, at , to her majesty's justices of the peace acting for the district of in petty sessions assembled." The notice had omitted to specify the place where the court was to sit, and it was argued that as they had jurisdiction in petty sessions to assemble anywhere within their district, the plaintiff was subjected to the burden of wandering about the area in search of them. The court thought the second objection a serious one, especially as the blank space after the " at " had not been filled in at all; one judge wondered whether it would not have been sufficient to fill in the name of the place (a town). Of the first, I think it fair to say, that they merely thought that there might be something in it: it was not, I may mention, argued that the warrant was misleading because on the face of it the complainant was not the respondent's landlord; for at all events, his case had essentially been that he was not. In the end, however, the plaintiff was hoist with his own petard, for in pleading he had omitted specially to lay damage, or to connect it with the irregularity or informality alleged.

Croom-Johnson, J., also alluded to, without naming, the above-mentioned *R.* v. *Droxford JJ., ex parte Knight*, which decided that the requirement that the person serving the notice of intended application that he should read it over to the person served and explain the purport and intent thereof (s. 2) was, despite the passing of the Elementary Education Act, 1870, and its successors, one that could not be dispensed with. The more recent decision suggests that those advising any limited companies (such being also a post-1838 creation), who may be landlords " entitled to take advantage of the exceptional remedy " should bear in mind the definition of " agent," and if there be no regular letting or collecting agent, advise an appointment under seal.

COMMON LAW COMMENTARY

NEGLIGENCE AND REMOTENESS OF DAMAGE

A GENERAL question raised in the Scottish case of *Steel* v. *Glasgow Iron & Steel Co., Ltd.* (1945), S.L.T. 70, has, according to the Lord Justice-Clerk (Cooper) never before been decided. The question is whether a person who intervenes in a causal sequence flowing from a negligent act, with the object of saving property rather than life, thus interposes a *novus actus interveniens* destroying the chain of causation.

The defenders were admittedly negligent in allowing some railway waggons to get out of control, and to collide with a train. The pursuer's deceased husband had tried to minimise the damage with the aid of a shunting pole, and as a result had been killed. Was this a *novus actus?*

Our courts have examined the principle of rescue cases, though it has been far more exhaustively considered in the U.S.A. In *Haynes* v. *Harwood* [1935] 1 K.B. 146, the following passage from Pollock's Law of Torts (13th ed., p. 498) was approved: " The law does not think so meanly of mankind as to hold it otherwise than a natural and probable consequence of a helpless person being put in danger that some able-bodied person should expose himself to the same danger to effect a rescue." But what is the position where the act was not the

rescue of a person but the salvage of inanimate property? This was left an open question in *Wilkinson* v. *Kinneil Cannel and Coking Coal Co.* (1897), 24 R. 1001, though Lord Maugham referred (*obiter*) to property, in *Haynes'* case. Winfield on Torts (1943) and other persuasive authorities accept the extension to property.

The Court of Session took the view that "the difference between intervention to save life and intervention to save property becomes a difference in degree and not a difference in kind. In both cases there must be imminent danger and sufficient justification for the risk which is assumed. Neither a rescuer nor a salvor may embark with impunity on an act of intervention which is unduly hazardous or unwarrantably extreme and beyond the exigencies of the situation," and "clearly a much higher degree of risk may be taken by a rescuer than by a salvor" (*per* the Lord Justice-Clerk). "In deciding whether a rescuer is justified in putting himself into a position of such great peril, the law has to measure the interests which he sought to protect and the other interests involved" (*per* Lord Maugham in *Haynes'* case).

The Court (Lord Mackay dissenting) held that the deceased's intervention was a natural and probable consequence of the defenders' negligence, which ought to have been foreseen by them.

EXTENSION OF TIME FOR APPEAL

The mere fact that a superior court has overruled an authority upon which a judgment was based is in itself not sufficient ground for obtaining an extension of the time in which to appeal. The court must take all the circumstances into account (*In re Berkeley: Borrer* v. *Berkeley* [1945] Ch. 1; (1944), 88 SOL. J. 391).

DANGEROUS MACHINERY

The power of a corporation to delegate their statutory duty was considered by Hilbery, J., in *Smith* v. *H. Baveystock and Co., Ltd.* [1945] 1 All E.R. 278.

The plaintiff was an experienced and skilled sawyer. The circular saw with which he was working had a proper guard, but at a certain moment it was not properly adjusted to the work. The plaintiff admitted that the adjustment was made by him but contended "that the duty to fence the circular saw by having the guard adjusted so as to extend to a point as low as practicable to the cutting edge of the saw is placed by the (Woodworking) Regulations upon the defendants . . . and that, if they did not leave that adjustment to the plaintiff, it remained their adjustment for which they must take responsibility . . ."

The judge said: "The defendants are a limited company and can only act through human agents. Being a corporation they must necessarily entrust the duty imposed upon them to some agent. I can see no reason why they should not leave the performance of the duty of adjusting the guard to the plaintiff. Providing the employee at a circular saw is sufficiently trained to work that class of machine, the regulations contemplate his being employed at a machine belonging to that class without supervision . . . From the standpoint of what was practical he was the best person to do it . . ." The judge applied *Vincent* v. *Southern Railway* [1927] A.C. 430. In that case, where a foreman or ganger was entrusted by the company with their duty of appointing a look-out, Lord Cave, L.C., said: "I see no sufficient reason why the foreman or ganger (who will be on the spot) should not be selected for that duty; but nevertheless, if he should fail in that duty, the company may be liable for the consequences of the default to any person not concerned in it."

In *Lay* v. *D. & L. Studios, Ltd.* [1944] 1 All E.R. 322, a machine-guard was improperly adjusted, but the adjustment had never been altered during the whole time the plaintiff had been working for the defendants, and he had never been taught how to adjust it. Although there is a duty on the workman to maintain the guard in proper adjustment, it is the duty of the employers to provide a properly adjusted guard in the first instance.

In *Lee* v. *Nursery Furnishings, Ltd.* (1945), 61 T.L.R. 263, the guard was adjusted to a half-inch above the wood which was to be cut. Asquith, J., held that "there was no extravagant clearance above the table, and that reg. 10 (c) was substantially complied with." But the Court of Appeal (Lord Goddard) pointed out that what was to be considered was not whether the clearance was extravagant, but whether the guard was "fixed as low as practicable." The Court of Appeal found that it was not as low as practicable.

In hesitating as to whether the accident was caused by the breach of the regulations, Lord Goddard let fall the following interesting dictum: "Where there has been a breach of one of the regulations, and the accident was one which the regulations are designed to prevent, a court should not be acute to find that the breach was not the cause of the accident."

CAR INSURANCE AND THE CARRIAGE OF PASSENGERS

Where an assured agreed not to carry passengers for hire or reward, and he made a regular practice of giving lifts to certain people, a difficult question of construction arose. Although the assured never asked for payment some of the passengers regularly paid him the amounts which they would otherwise have paid in railway fares.

Atkinson, L.J., held (*Bonham* v. *Zurich General Accident and Liability Insurance Co., Ltd.* (1945), 61 T.L.R. 271) that an agreement was essential to a carrying for hire or reward, and that there was no such agreement in the present case. His decision was reversed on appeal, MacKinnon, L.J., dissenting.

MacKinnon, L.J., held that "carriage for hire or reward imports carriage for some monetary or other remuneration pursuant to some form of contract by which the owner of the car would be entitled legally to claim the payment of that monetary reward from the passengers. On the facts as found in this case there was, in my view, no such legally enforceable contract . . . If the passengers had not paid him anything the claimant would still have carried them." In his view the words "hire or reward," being used by the company, should be construed against them if there were any ambiguity.

But du Parcq, L.J., felt that he should give the words "the natural interpretation which the plain man would give them . . . A distinction is to be drawn between 'hire' and 'reward,' or the words 'or reward' would not be necessary . . ." The payments made amounted to reward. Uthwatt, J., agreed. Leave to appeal to the House of Lords was granted.

OBITUARY

MR. F. ANDREWS

Mr. Frank Andrews, solicitor, of Messrs. Butcher, Andrews and Savory, Fakenham, Norfolk, died on Sunday, 11th March, aged seventy-four. He was admitted in 1892.

MR. T. DOWLING

Mr. Thomas Dowling, solicitor, of Bishop Auckland, died on Wednesday, 14th March, aged eighty. He was admitted in 1895.

MR. I. M. NOORDIN

Mr. Ivor Merton Noordin, barrister-at-law, died on Tuesday, 20th March. He was called by Lincoln's Inn in 1932.

THE MONMOUTHSHIRE INCORPORATED LAW SOCIETY

The fifty-seventh annual general meeting of the above society was held at the Law Library, Newport, on the 15th March. The annual report of the council which was presented to the meeting contained a record of the members serving and having served with His Majesty's Forces and amongst other matters dealt with it was reported that 136 applications had been made to the Poor Persons Procedure Committee resulting in the issue of thirty-six certificates. Mr. Mostyn C. Llewellin was elected President for the ensuing year, and Mr. E. I. P. Bowen and Mr. D. T. Newton Wade Vice-Presidents; Mr. C. O. Lloyd, Honorary Treasurer, Mr. T. Baker Jones, Honorary Librarian, and Mr. W. Pitt-Lewis, Honorary Secretary.

TO-DAY AND YESTERDAY

LEGAL CALENDAR

March 26.—Sir John Dinely Goodere, a baronet, with an estate near Evesham worth £3,000 a year, had a younger brother, Samuel, a captain in the Royal Navy, who had served with distinction at San Sebastian and Ferrol, but with whom he was on bad terms and whom he determined to exclude from the succession, taking the legal steps to secure it to his sister's children. The captain planned revenge. His ship, the *Ruby*, was lying off Bristol, when he heard that his brother was in the city on business and was to dine one night with an attorney named Smith. He got himself invited under pretence of making up the quarrel and an apparent reconciliation having taken place, the brothers left together, but a party of sailors, previously posted by the captain in a public-house, rushed out as they passed it and hurried Sir John to a boat near the Hot Wells. Once in the warship he was taken to a cabin, where two Russians, employed by his brother, strangled him. The captain had told the people on shore that he was a deserter, and his crew that he was a lunatic who had to be restrained from killing himself. After the murder he gave the Russians money and sent them away, but the crime was immediately known and the lieutenant confined the captain to his cabin. He and his two accomplices were tried at Bristol on the 26th March, 1741, and condemned to death.

March 27.—On the 27th March, 1861, William Williams, a lad of nineteen, was tried at the Brecon Assizes for the murder of Ann Williams, his aunt, at the hamlet of Grwyney, in the Parish of Talgarth. The deceased, who occupied a small farm about six miles from the place where her nephew was in service, had always treated him kindly and he had learnt that under her will her little property was to go to himself and his sister. One day, while on a visit to her, he put the muzzle of his gun through the staves of the chair in which she was sitting by the fire picking wool and shot her dead. He afterwards said: "I committed this in consequence that I had no home; my mother has been a bad mother to me." His counsel tried to establish insanity and asked the jury at least to recommend him to mercy on the ground of his utterly neglected and scarcely human condition. They did, but he was hanged.

March 28.—One night in July, 1751, Joseph Jeffries, a rich retired butcher, was shot at his house in Walthamstow. His niece Elizabeth, and his servant John Swan, who was her lover, were tried at Chelmsford and convicted of murder. On the 28th March, 1752, they were hanged. At five in the morning Swan was chained to a sledge; Elizabeth, handcuffed, was carried fainting to a cart. On recovering she asked for a religious book and Nelson's "Practice of True Devotion" was borrowed from a wayside public-house; Swan was given Roswell's "Prisoner's Director." At Brentwood he drank a glass of wine and she took some water with hartshorn drops in it. The gibbet was at Epping Forest "about an hundred yards beyond the Obelisk," where they arrived at two o'clock. The chaplain's mourning coach was late, and Swan exclaimed: "What! must I die like a dog and no prayers said for me?" But he arrived in time. A vast concourse was assembled and all the road from Chelmsford was lined with spectators. After the execution Elizabeth's body was delivered to her friends in a fine quilted coffin which she had ordered. Swan was hung in chains "at Bucket's Hill, near the Bald-faced Stag," where his master often resorted and whence he used to fetch him.

March 29.—On the 29th March, 1652, Evelyn noted in his diary: "I heard that excellent prelate, the Primate of Ireland (Jacob Usher) preach in Lincoln's Inn on 4 Hebrews, v. 16, encouraging of penitent sinners."

March 30.—On the 30th March, 1807, George Allen was hanged at Stafford for murdering his three children, though the fact that he had previously been subject to epileptic fits might well have established his insanity. At eight in the evening he had gone to bed and when his wife followed him he was sitting up as usual smoking his pipe. In the same room three of his children, aged ten, six and three, were asleep. He accused her of having another man in the house and a scene followed, in which he tried to cut her throat, but she escaped, practically falling downstairs. As she rose the body of the girl of six fell at her feet with the head almost cut off. Later, Allen was found with a razor in his hand, while the bodies of the other children disembowelled lay in the room. After the inquest he told a fantastic story of a ghost horse which had enticed him to a stable, drawn blood from him and flown into the sky. Of the killing, he said unconcernedly that he supposed it was as bad a case as had ever been heard of.

March 31.—Mary Edmondson, the daughter of a Yorkshire farmer, lived for two years with her aunt at Rotherhithe, always behaving well and attending church regularly. Then, one night, a passer-by noticed the door of the house open and heard her calling: "Help! Murder! They have killed my aunt!" The old lady was found dead with her throat cut, and Mary told an unlikely story of a tall man in black and three other strangers having come in at the back door and murdered her. However, when some valuables, which she said were missing, were found under the privy floor, suspicion fell on her. She was tried for the murder at the Kingston Assizes, convicted and condemned to death on the 31st March, 1759. To the end she protested her innocence.

April 1.—On the 1st April, 1806, "while two constables were conducting a man to Hereford from near Fawnhope, he suddenly plunged from the road into the river, near Mordiford, and, after wishing his conductors a good night, was drowned. Much blame is said to attach to the people who had the care of this unfortunate man, as they did not make the smallest effort to save him."

Cruelty Cases

The Gough manslaughter case, at the Stafford Assizes, had some features which recalled an even worse case in the eighteenth century, the trial of Mrs. Elizabeth Brownrigg, for the murder of Mary Clifford, her apprentice. She lived in Flower-de-Luce Court, in Fleet Street, and applied to the Foundling Hospital and the parish overseers for girls to be apprenticed to her to learn the duties of household servants. Two were placed with her but, after a good deal of brutal treatment, the one from the Foundling Hospital escaped, bearing such evident marks of ill usage that she was not sent back. The remaining apprentice, Mary Mitchell, was soon joined by another from the neighbourhood, named Mary Clifford. Both were horribly treated, but especially the newcomer, who was often tied up naked and beaten with a broom, a horse whip or a cane, till she was speechless. She had to sleep in the coal hole on sacking and straw, and once, when she complained to a lodger, Mrs. Brownrigg tried to cut her tongue out. Eventually her step-mother came to London, but was refused a sight of her. Neighbours told her their suspicions and the result was a visit from the overseers of St. Dunstan's. They took Mary Mitchell away in so bad a state that her wounds were sticking to her clothes, but it was only as a result of a second search that they found the other girl in a cupboard in an indescribable condition. Mrs. Brownrigg's husband was arrested; she and her son fled, and it was only after the girl had died that they were traced. She alone was convicted of murder at the Old Bailey and hanged at Tyburn on the 14th September, 1767. The other two, convicted on a lesser charge, were sent to prison for six months. In the nineteenth century a somewhat similar tragedy was enacted in Pump Court in the Temple in the chambers of a special pleader though death did not ensue. He was sent to prison after a sensational trial.

NOTES OF CASES

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

The Governor-General in Council *v.* **Province of Madras**

Lord Russell of Killowen, Lord Porter Lord Simonds, Lord Goddard, Sir Madhavan Nair. 22nd January, 1945

India—Provincial legislation—Tax on sales—Validity—Excise duty—Meaning—Government of India Act, 1935 (25 & 26 *Geo.* 5, *c.* 49), *s.* 100, *Seventh Schedule Madras General Sales Tax*, 1939.

Appeal from a decree of the Federal Court of India.

The Government of India Act, 1935, by s. 100, provides that the Federal Legislature has, and a Provincial Legislature has not, power to make laws with respect to the matters enumerated in Part I of the Seventh Schedule thereto, being the Federal Legislative list. Entry No. 45 on that list is " duties of excise on tobacco and other goods manufactured or produced in India " with certain exceptions. The same section gives to the Provincial Legislature the exclusive power to make laws for a province with respect to matters enumerated in list 111 of the Seventh Schedule, being the Provincial Legislative list. Entry No. 48 on that list is " taxes on the sale of goods and on advertisements." The Madras General Sales Act, 1939, imposed a tax on all dealers, being persons who carried on the business of buying or selling goods, the rate of tax varying with the monthly turnover of the dealers. In these proceedings the Governor-General in Council claimed a declaration that the Madras General Sales Act, 1939, in so far as it purported to levy a tax on first sales of certain goods, was *ultra vires* the Provincial Legislature on the ground that such tax was a duty of excise. The Federal Court dismissed the suit and the Governor-General in Council appealed.

LORD SIMONDS, delivering the decision of the Board, said they were of opinion that a duty of excise was primarily a duty levied on a manufacturer or producer in respect of the commodity manufactured or produced. It was a tax on goods, not on sales or the proceeds of sales of goods. The two taxes, one levied on a manufacturer in respect of his goods, the other on a vendor in respect of his sales might in one sense overlap. But in law the taxes were separate and distinct. The Federal Legislature might impose a duty of excise on the manufacturers of excisable goods and the Provincial Legislature impose a tax on the sale of the same goods when manufactured. The competing entries No. 45 of the Federal List and No. 48 of the Provincial List might fairly be reconciled. The tax imposed by the Madras Act was not a duty of excise in the cloak of a tax on sales. The appeal should be dismissed.

COUNSEL: *Sir Walter Monckton*, K.C., and *J. B. Mackenna*; *J. M. Tucker*, K.C., and *H. G. Robertson*.

SOLICITORS: *India Office*; *E. F. Turner & Sons*.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

COURT OF APPEAL

Davies *v.* **Collins**

Lord Greene, M.R., MacKinnon, L.J., and Uthwatt, J. 24th January, 1945

Bailment—Dyers and cleaners—Condition limiting liability in case of loss—Whether sub-contracting permissible—Sub-contracting held to be outside contract in this case—Loss incurred during sub-contracting—Limitation clause not to apply.

Defendant's appeal from a judgment given by His Hon. Judge Lilley at Bloomsbury County Court, in favour of the plaintiff, for the value of a uniform which he had entrusted to the defendant, a cleaner and dyer, for cleaning and repairing.

The learned county court judge had held that as the defendant had employed a sub-contractor to do the work, without any authority from the plaintiff, he could not rely on a clause in the contract limiting his liability in case of loss. The learned judge had found that the plaintiff was fixed with notice of certain conditions on the docket which was handed to him when he handed his uniform to the defendant. The relevant conditions were: " Whilst every care is exercised in cleaning and dyeing garments, all orders are accepted at owner's risk entirely, and we are unable to hold ourselves responsible for damage, shrinkage, colour or defects developed in the necessary handling. The proprietors' liability for loss is limited to an amount not exceeding ten times the cost of cleaning."

LORD GREENE, M.R., said that the uniform had not been returned and must be taken to have been lost, for the purposes of this case. His lordship referred to *Robson & Sharpe* v. *Drummond* (1831), 2 B. & Ad. 303; *British Waggon Co. and Parkgate Waggon Co.* v. *Lea*, 5 Q.B.D. 149, and *Nokes* v. *Doncaster Amalgamated Collieries, Ltd.* [1940] A.C. 1014, at p. 1019 (*per* Viscount Simon, L.C.), and said that whether or not in any given contract performance can properly be carried out by the employment of a sub-contractor must depend on the proper inference to be drawn from the contract itself, the subject-matter of it, and other material surrounding circumstances. The county court judge appeared to have thought that the nature of the work itself was sufficient to exclude the right on the part of the cleaner to have it carried out by a sub-contractor, but his lordship did not think he should agree that that by itself was sufficient. It seemed to his lordship that the actual language of the condition (his lordship referred particularly to the words " every care " and " necessary handling ") was sufficient to exclude any right on the part of the contractor to get the work done by a sub-contractor. There was another matter which was conclusive: the mere presence of this limitation clause by itself was sufficient to exclude from the contract any right on the part of the contractor to sub-contract. If it was contended that the customer was to be affected by that extended range of risk it should be made clear to him that that was the risk which was being imposed upon him. Different considerations might well apply in the case of returning the goods to the customer. It must not be taken from what his lordship had said that the presence of a limitation clause of that kind was sufficient to exclude the right to sub-contract in respect of a purely ancillary matter of that kind.

UTHWATT, J., agreed, and MACKINNON, L.J., also delivered a short judgment to the same effect. Appeal dismissed.

COUNSEL: *S. Lincoln*; *J. R. Ogilvie Jones*.

SOLICITORS: *Burnett L. Elman*; *John B. de Fonblanque*.

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

CHANCERY DIVISION

In re **Shelton's Settled Estates; Shelton** *v.* **Shelton**

Vaisey, J. 18th January, 1945

Will—Construction—Referential settlement—Disentail of property in original settlement—Base fee—Devolution of will property.

Adjourned summons.

By his will dated the 2nd September, 1896, the testator devised his real estate at W to the trustees of the S estate, of which he was the then tenant for life, " to be held by them upon the same trusts with the same powers and for the same intents and purposes as the said estates or as nearly corresponding thereto as the circumstances of the case will admit." He gave his residuary estate, in the events which have happened, to the defendant D, a grand-daughter. By a codicil dated the 28th December, 1898, after reciting the devise in the will of the W estates, the testator gave to his daughter C a life interest in those estates and then provided: " And upon her decease I give and devise the same to the trustees for the time being of the said estates at S upon the trusts and in manner of my said will mentioned. In all other respects I confirm my said will." The testator died the same year. He was survived by two sons and two daughters, of whom C was one. The S estates referred to in the will were settled, under an indenture of 1868, after the death of the testator, to the use of his sons successively in tail male, with remainders over. In 1894, prior to the testator's death, his eldest son executed a disentailing assurance of the S estates, without the consent of the protector of the settlement, and created a base fee which, in 1898, was enlarged into a fee simple. The testator's eldest son, who died without issue in 1923, settled the S estates upon trusts which failed and the estates passed under his will to his brother, the younger son of the testator, who died in 1940, leaving a son, the defendant R. The testator's daughter C, the tenant for life of the W estates, died in 1942. This summons raised the question how the W estates now devolved.

VAISEY, J., said that one view was that the W estates became a mere accretion of the S estates and followed them through all their vicissitudes. In his judgment that view was untenable. He had to decide between the claim of R, who might succeed on the ground that " the trusts, powers, intents and purposes " referred to were those in the 1868 settlement, and no regard ought to be paid to dealings by beneficiaries with their interests since, or on the ground that the words " or as nearly corresponding thereto as the circumstances of the case will admit " enabled the trusts to be executed as it were *cy-pres*; and the claim of D, whose case rested on the contention that, as a base fee could not be created by will, the dispositions in the will and codicil, save as regards the life interest, failed and the W estates fell into residue. He had come to the conclusion that the claim

of R succeeded. He leant to the conclusion that the existence of the base fee could not be ignored but must be included as one of "the circumstances of the case." Corresponding trusts must be so framed as to carry this property over (the younger son being dead) to the defendant R. He would not particularise the trusts. Equity would not permit the intention of the testator to be frustrated and the trusts to fail for want of the necessary ingenuity of adaptation.

COUNSEL: *Wilfrid Hunt; E. M. Winterbotham; Geoffrey Cross; I. J. Lindner; B. G. Burnett-Hall.*

SOLICITORS: *Waterhouse & Co.*, for *Winterbotham, Gurney and Co.*, Cheltenham; *Jacques & Co.*, for *Watts & Son*, Dewsbury; *Iliffe, Sweet & Co.*

[Reported by Miss B. A. BICKNELL Barrister-at-Law.]

PRACTICE NOTE

DISTRIBUTION OF AN INTESTATE'S ESTATE

FORM OF ORDER WHERE ONLY PARTIAL INQUIRY NECESSARY, AND APPLYING THE PROVISIONS OF ORDER 65 RULE 14 (c)

The following form of Order is approved by the Chancery Judges:

UPON THE APPLICATION &c. &c.

IT IS ORDERED that the following inquiries be made that is to say:—

(1) an Inquiry whether A.B. (who died on the and was a sister of the above-named Intestate X.Y.) left any and what issue who at the date of the death of the said Intestate on became beneficially entitled either absolutely or contingently to the stirpital share of the estate of the said Intestate to which the said A.B. would have become beneficially entitled had she survived the said Intestate and if so for what estates and interests and in what shares and proportions respectively and if any such issue have since died having attained an absolute vested interest who are their respective personal representatives

(2) an Inquiry whether C.D. (a brother of the said Intestate) is living or dead and if he died after the death of the said Intestate on the who are his personal representatives and if he died before the death of the said Intestate whether he left any and what issue who at the date of the death of the said Intestate became beneficially entitled either absolutely or contingently to the stirpital share of the estate of the said Intestate to which the said C.D. would have become beneficially entitled had he survived the said Intestate and if so for what estates and interests and in what shares and proportions respectively and if any such issue have since died having attained an absolute vested interest who are their respective personal representatives

AND IT IS ORDERED that the Plaintiffs as Administratrices of the estate of the said Intestate be at liberty (subject to retention and payment out of the general estate of the costs hereinafter directed to be taxed and retained or paid and all other proper costs charges and expenses) to distribute amongst the persons entitled thereto the residuary estate of the said Intestate except the shares to which the said A.B. (a sister of the said Intestate) and C.D. (a brother of the said Intestate) or their respective issue would be beneficially entitled if they respectively survived the said Intestate without retaining any part of the said residuary estate except the shares as aforesaid to meet the subsequent costs of ascertaining the persons beneficially entitled to the said excepted shares (including in such last-mentioned costs the costs of the inquiries hereinbefore directed)

AND IT IS ORDERED that the costs of the Plaintiffs and of the Defendants of this application down to and including this Order be taxed by the Taxing Master as between solicitor and client and be raised retained and paid by the Plaintiffs out of the general estate of the said Intestate

AND the parties are to be at liberty to apply.

NOTE.—The Inquiries will be adapted to meet the particular difficulties arising in each case.

A. H. HOLLAND,
Chief Master,
Chancery Division.

APPOINTMENT OF "NEXT FRIEND"

Cambridgeshire and District Law Society: (area includes County of Huntingdon): Mr. W. Maclaren Francis, 10, Peas Hill, Cambridge.

Oldham Law Association: Mr. J. J. Burridge, of Messrs. Ponsonby & Carlile & Booths, 5, Greaves Street, Oldham.

RULES AND ORDERS

S.R. & O., 1945, No. 289/L.3

COUNTY COURT, ENGLAND

FUNDS

THE COUNTY COURT FUNDS RULES, 1945, DATED MARCH 13, 1945

I, John Viscount Simon, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by Section 158 of the County Courts Act, 1934,* and all other powers enabling me in this behalf, and with the concurrence of the Treasury, do hereby make the following Rules:—

1. The County Court Funds Rules, 1934,† shall be amended as follows:—

(1) The following new Rule shall be inserted after Rule 11—

"*Payments into Court under the Liabilities (War-Time Adjustment) Acts*, 1941 *and* 1944.‡

11A. All money paid into Court under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944, shall, until an Order of the Court is made directing the money to be invested, be treated as money not subject to investment by Order of the Court, and accordingly Rules 4 to 11 of these Rules shall apply pending the making of any such Order:

Provided that an Order for investment shall not be made as respects any sum less than £50, or as respects any sum which may reasonably be expected to be paid out during the next six months after the date of payment-in."

(2) In Rule 12, after the words "ordered by the Court to be invested" there shall be inserted the words "to money paid into Court under the Liabilities (War-Time Adjustment) Acts 1941 and 1944, for the investment of which an Order has been made by the Court."

(3) The following paragraph shall be added to Rule 15—

"(3) When an Order has been made by the Court directing the investment of money paid into Court under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944, the Registrar shall, on the same day as a deposit account is opened in respect of the Fund in accordance with Rule 16, transmit the amount of the Fund, after deducting any prescribed fee, by cheque to the Accountant-General together with a notice in Form 9 and a copy of the Order."

(4) The following Rule shall be substituted for Rule 19—

"19. Subject to the provisions of paragraph (4) of this Rule:—

(1) No sum less than £20 shall be transferred from the Deposit Account to the Investment Account.

(2) An Order may direct that a Fund of less than £20 shall accumulate Deposit interest and be invested when the capital sum together with the accumulated interest amounts to £20.

(3) Investment interest or dividends accumulated in a Deposit Account and not required for payments that may be reasonably expected to be made during the next six months may be invested when the amount thereof reaches £20.

(4) No sum shall be transferred from a Deposit Account to an Investment Account in any matter under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944."

2. These Rules may be cited as the County Court Funds Rules, 1945, and shall come into operation on the second day of April, 1945, and the County Court Funds Provisional Rules, 1945, shall be superseded and replaced by these Rules.

Dated the 13th day of March, 1945.

Simon, C.
N. A. Beechman, } Lords Commissioners of His
L. R. Pym, } Majesty's Treasury.

* 24 & 25 Geo. 5, c. 53. † S.R. & O., 1934 (No. 1315) I, p. 272.
‡ 4 & 5 Geo. 6, c. 24 and 7 & 8 Geo. 6, c. 40.

PARLIAMENTARY NEWS

HOUSE OF LORDS

MINISTRY OF FUEL AND POWER BILL [H.C.].
Read Second Time. [22nd March.

MINISTRY OF HEALTH PROVISIONAL ORDER (CONWAY AND COLWYN BAY JOINT WATER SUPPLY BOARD) BILL [H.C.].
Read Third Time. [21st March.

LICENSING PLANNING (TEMPORARY PROVISIONS) BILL [H.C.].
Read Third Time. [20th March.

PONTYPOOL GAS AND WATER BILL [H.L.].
Read Third Time. [22nd March.

STAFFORDSHIRE POTTERIES STIPENDIARY JUSTICE BILL [H.C.].
Read First Time. [21st March.

HOUSE OF COMMONS

CONSOLIDATED FUND No. 3 BILL [H.C.].
To apply certain sums out of the Consolidated Fund to the service of the years ending 31st March, 1945 and 1946.
Read Second Time. [22nd March.

DISTRIBUTION OF INDUSTRY BILL [H.C.].
Read Second Time. [21st March.

QUESTIONS TO MINISTERS

COMMORIENTES

Mr. SILKIN asked the Attorney-General whether he is aware of the anomalies which arise under the Administration of Estates Act, 1925, when several members of one family are killed simultaneously by enemy action; and will he cause legislation to be introduced so that property owned by intestates shall not pass away from their next of kin.

The ATTORNEY-GENERAL: I am not clear as to what are the anomalies which my hon. friend suggests exist. One aspect of this matter is dealt with in an appeal in which the decision of the House of Lords will shortly be given. I am not satisfied legislation is necessary, but if my hon. friend will let me know his suggestions I will consider them. [20th March.

WAR LEGISLATION

STATUTORY RULES AND ORDERS, 1945

No. 283. TRADING WITH THE ENEMY SPECIFIED PERSONS (Amendment) (No. 4) Order. March 13.

NOTES AND NEWS

Honours and Appointments

The Colonial Legal Service announce the following appointments: Mr. C. T. ABBOTT, Solicitor-General, Sierra Leone, to be Assistant Judge, Protectorate Courts, Nigeria; Mr. A. PHILLIPS, Crown Counsel, Kenya, to be Judicial Adviser, Kenya.

Mr. ALEXANDER EDDY, Chief Legal Adviser and Solicitor of the L.M.S. retires on 31st March. Mr. R. P. HUMPHRYS has been appointed Chief Solicitor to the Company from 1st April. Mr. Humphrys was admitted in 1920.

Mr. ARTHUR CAPEWELL has been appointed Deputy Chairman of the Middlesex Quarter Sessions from 30th April. Mr. Capewell was called by Gray's Inn in 1926.

Notes

Mr. Eden announced in the House of Commons recently that the Chancellor of the Exchequer would open his Budget on 24th April.

The Board of Trade announce that all policies under the Business Scheme which are in force on 31st March, 1945, will be extended until 30th June, 1945, without further payment of premium or further action on the part of policy holders. For new or additional insurance under the scheme the rate of premium for the three months 1st April to 30th June, 1945, will be 1s. 8d. per cent., with a minimum premium of 5s.

An interesting letter appeared in *The Times* on Saturday, 17th February, from Mr. A. E. McLaren, drawing attention to the work of the late Miss Fortescue-Brickdale in connection with the cover of the land certificates issued by H.M. Land Registry. Mr. McLaren wrote as follows: "These certificates correspond in their principal function to the share certificates issued to their shareholders by limited companies, and it would not have been remarkable had they resembled the latter also in form. But instead of some common-place framework of black lines enclosing indifferent printing there was issued to the surprised registered proprietors of, I think, 1898, the folio-sized certificate in the form still in use, on the cover of which is a piece of decorative designing admirable in its kind, printed apparently from a wood block on rough white paper. An official document of which the appearance might so easily have been negligible or positively ugly had become pleasant to see and to touch. The examples of this work of art must soon run into hundreds of thousands—all for careful preservation."

DEFALCATION

On Friday, 23rd March, at the Old Bailey, Robert John Gardner Rolfe, solicitor, of Brooklyn House, Marlowes, Hemel Hempstead, was sentenced to six months' imprisonment for fraudulent conversion.

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price 26th March 1945	Flat Interest Yield £ s. d.	‡ Approximate Yield with redemption £ s. d.
British Government Securities				
Consols 4% 1957 or after	FA	111½	3 11 9	2 17 1
Consols 2½%	JAJO	83	3 0 3	—
War Loan 3% 1955–59	AO	102½	2 18 6	2 14 3
War Loan 3½% 1952 or after	JD	105½	3 6 7	2 14 7
Funding 4% Loan 1960–90	MN	114xd	3 10 2	2 16 9
Funding 3% Loan 1959–69	AO	100¾	2 19 6	2 18 7
Funding 2¾% Loan 1952–57	JD	102	2 13 11	2 8 8
Funding 2½% Loan 1956–61	AO	98¾	2 10 7	2 11 11
Victory 4% Loan Av. life 18 years	MS	114	3 10 2	2 19 8
Conversion 3½% Loan 1961 or after	AO	105¾	3 6 2	3 0 9
Conversion 3% Loan 1948–53	MS	102¾	2 18 4	2 0 0
National Defence Loan 3% 1954–58	JJ	103	2 18 3	2 12 6
National War Bonds 2½% 1952–54	MS	101½	2 9 5	2 6 9
Savings Bonds 3% 1955–65	FA	101¼	2 19 3	2 17 1
Savings Bonds 3% 1960–70	MS	100¼	2 19 8	2 19 2
Local Loans 3% Stock	JAJO	95¾	3 2 8	—
Bank Stock	AO	385½xd	3 2 3	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97	3 1 10	—
Guaranteed 2¾% Stock (Irish Land Act 1903)	JJ	93	2 19 2	—
Redemption 3% 1986–96	AO	99¾	3 0 2	3 0 9
Sudan 4½% 1939–73 Av. life 16 years	FA	116	3 17 7	3 4 1
Sudan 4% 1974 Red. in part after 1950	MN	112	3 11 5	1 12 7
Tanganyika 4% Guaranteed 1951–71	FA	106½	3 15 1	2 16 2
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	98½	2 10 9	2 13 2
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	108	3 14 1	3 1 2
Australia (Commonw'h) 3½% 1964–74	JJ	102	3 3 9	3 2 2
*Australia (Commonw'h) 3% 1955–58	AO	99	3 0 7	3 1 10
†Nigeria 4% 1963	AO	112	3 11 5	3 3 0
*Queensland 3½% 1950–70	JJ	102	3 8 8	3 1 3
Southern Rhodesia 3½% 1961–66	JJ	105	3 6 8	3 1 11
Trinidad 3% 1965–70	AO	100	3 0 0	3 0 0
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	95	3 3 2	—
*Croydon 3% 1940-60	AO	101	2 19 5	—
*Leeds 3¼% 1958–62	JJ	102	3 3 9	3 1 5
*Liverpool 3% 1954–64	MN	100½	2 19 8	2 18 9
Liverpool 3¼% Red'mable by agreement with holders or by purchase	JAJO	105	3 6 8	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	95½	3 2 10	—
*London County 3¼% 1954–59	FA	106	3 6 0	2 15 5
Manchester 3% 1941 or after	FA	95	3 3 2	—
*Manchester 3% 1958–63	AO	101	2 19 5	2 18 2
Met. Water Board 3% "A" 1963–2003	AO	97	3 1 10	3 1 10
Do. do. 3% "B" 1934–2003	MS	99	3 0 7	3 0 11
Do. do. 3% "E" 1953–73	JJ	99½	3 0 4	3 0 6
Middlesex C.C. 3% 1961–66	MS	101	2 19 5	2 18 5
*Newcastle 3% Consolidated 1957	MS	101	2 19 5	2 18 0
Nottingham 3% Irredeemable	MN	95	3 3 2	—
Sheffield Corporation 3½% 1968	JJ	107	3 5 5	3 1 6
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	116½	3 8 8	—
Gt. Western Rly. 4½% Debenture	JJ	122½	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	134½	3 14 4	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	132½	3 15 6	—
Gt. Western Rly. 5% Preference	MA	117½	4 5 1	—

* Not available to Trustees over par.
† Not available to Trustees over 115.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date: in the case of other Stocks, as at the latest date.

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